

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of

Applicant(s) : John Joseph Harrington  
Application No. : 10/635,818  
Filed : August 5, 2003  
Title : Composition and Methods for Non-Targeted Activation of Endogenous Genes  
Examiner : Shin-Lin Chen  
Art Unit : 1632  
Attorney Docket : 0221-0003MCON

**TERMINAL DISCLAIMER TO OBLVIAE A DOUBLE PATENTING REJECTION****OVER A "PRIOR" PATENT AND PENDING "REFERENCE" APPLICATION**

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

ABT Holding Company, a corporation of the State of Delaware, is the assignee of the entire interest in the whole of the inventions disclosed in the above-captioned patent application by virtue of an assignment from the inventors John Joseph Harrington, Bruce A. Sherf, and Stephen E. Rundlett, to Athersys, Inc. on July 2, 1999, on reel/frame no. 10064/0420 and the inventions disclosed in U.S. Patent Nos. 6,602,686; 7,316,923; 6,623,958; 6,740,503; and 7,033,782; and U.S. Application Nos. 10/331,329 or 11/218,378.

ABT Holding Company hereby disclaims the terminal part of the statutory term of any patent that should issue from the above-captioned patent application that would extend beyond the expiration date of the full statutory terms of U.S. Patent Nos. 6,602,686; 7,316,923; 6,623,958; 6,740,503; and 7,033,782; and any patent that should issue from U.S. Application Nos. 10/331,329 or 11/218,378. ABT Holding Company further agrees that any patent that should issue from the above-captioned patent application shall be enforceable only for and during such period that legal title to said patent shall be the same as legal title to U.S. Patent Nos. 6,602,686; 7,316,923; 6,623,958; 6,740,503; and 7,033,782; and any patent that should issue from U.S. Application Nos. 10/331,329 or 11/218,378.

This terminal disclaimer is binding upon ABT Holding Company, its successors and assigns.

ABT Holding Company does not disclaim any terminal part of any patent that should issue from the above-captioned patent application prior to the expiration date of U.S. Patent Nos. 6,602,686; 7,316,923; 6,623,958; 6,740,503; and 7,033,782; and any patent that should issue from U.S. Application Nos. 10/331,329 or 11/218,378 in the event that U.S. Patent Nos. 6,602,686; 7,316,923; 6,623,958; 6,740,503; and 7,033,782; and any patent that should issue from U.S. Application Nos. 10/331,329 or 11/218,378 later expire for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims cancelled by a reexamination certificate, is reissued or is otherwise terminated prior to expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

The terminal disclaimer fee under 37 C.F.R. § 1.20(d) of \$70.00 is submitted herewith.

Respectfully submitted,



\_\_\_\_\_  
Anne Brown  
Reg. No. 36,463

---

THOMPSON HINE LLP  
10 West Second Street  
2000 Courthouse Plaza, N.E.  
Dayton, Ohio 45402  
(216) 566-8921

11441592.1